

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SETH AMOS NELSON,

Defendant.

CR-07-139-GF-BMM

ORDER

United States Magistrate Judge John Johnston entered Amended Findings and Recommendations in this matter on July 1, 2020. (Doc. 155.)

When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 153-52 (1986). This Court will review Judge Johnston's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston conducted a revocation hearing on June 29, 2020. (Doc. 150.) The United States accused Nelson of violating his conditions of supervised release 1) by using methamphetamine; 2) by using amphetamine; 3) by failing to report for substance abuse testing; 4) by failing to take the mental health medication prescribed by his treating physician; 5) by failing to report for mental health treatment; 6) by failing to report to his probation officer as directed; 7) by failing to

report for substance abuse treatment; 8) by possessing methamphetamine; and 9) by committing another crime . (Doc. 149). At the revocation hearing, Nelson admitted that he had violated the conditions of his supervised release: 1) by using methamphetamine; and 4) by failing to take the mental health medication prescribed by his treating physician. (Doc. 150.) The government proved alleged violations 3, 5, 6, 7 and 8. The government failed to satisfy its burden of proof with respect to alleged violations 2 and 9. Judge Johnston found that the violations Nelson admitted proved to be serious and warranted revocation, and recommended that Nelson receive a custodial sentence of 6 months, with 42 months of supervised release to follow. Judge Johnston recommended that the term of supervised release should consist of 42 months on Count 1, and 30 months on Count 4, with the terms of supervised release to run concurrent. Judge Johnston also recommended that Nelson serve the first 6 months of supervised release under home confinement and be required to participate in up to 365 urinalysis tests, 365 breath test, and 52 sweat patch tests annually. (Doc. 155.) Nelson was advised of the 14 day objection period and his right to allocute before the undersigned. He did not waive those rights. (Doc. 150.)

The violations prove serious and warrant revocation of Nelson's supervised release. The Court finds no clear error in Judge Johnston's Findings and Recommendations.

Accordingly, **IT IS ORDERED** that Judge Johnston's Amended Findings and Recommendations (Doc. 155) are **ADOPTED IN FULL**.

IT IS FURTHER ORDERED that Defendant Seth Amos Nelson be incarcerated for a term of 6 months of custody, with 42 months of supervised release to follow. The term of supervised release should consist of 42 months on Count 1, and 30 months on Count 4, with the terms of supervised release to run concurrent. Nelson will serve the first 6 months of supervised release under home confinement and be required to participate in up to 365 urinalysis tests, 365 breath test, and 52 sweat patch tests annually.

DATED this 16th day of June, 2020.

A handwritten signature in blue ink, reading "Brian Morris".

Brian Morris, Chief District Judge
United States District Court